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October 6, 2014

VIA ECF AND EMAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

*Re: Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC, No. 08-01789 (SMB);
Picard v. Merkin, Adv. Pro. No. 09-01182 (SMB)*

Dear Judge Bernstein:

We are counsel to Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated SIPA liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the estate of Bernard L. Madoff, plaintiff in the above-referenced adversary proceeding.

At the October 2, 2014 hearing on the Trustee’s Motion to Direct Entry of a Final Judgment Under Federal Rule of Civil Procedure 54(b) and to Certify Judgment for Immediate Appeal Under 28 U.S.C. § 158(d) (the “Hearing”), the Court requested that the Trustee’s counsel submit a chart identifying those adversary proceedings pending before the Court in which the Trustee’s claims could be the subject of a motion to dismiss based on the standards enunciated in Judge Rakoff’s “Actual Knowledge” decision, *SIPC v. BLMIS*, No. 12 Misc. 115 (JSR), 2013 WL 1609154 (S.D.N.Y. Apr. 15, 2013), and this Court’s decision of August 12, 2014 in this adversary proceeding. *Picard v. Merkin*, 2014 WL 3908211 (Bankr. S.D.N.Y. Aug. 12, 2014).

The chart is enclosed herewith. The chart lists 103 adversary proceedings and the number of defendants in each against whom the Trustee’s claims could be affected by the “actual knowledge” standard. The Trustee is available to the Court should it have any further questions.

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Sincerely,

/s/ David J. Sheehan

David J. Sheehan

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